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**DELIVERED VIA ECF**

November 17, 2023

Honorable Lorna G. Schofield  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *UMG Recordings, Inc., et al. v. Internet Archive, et al.*, 1:23-cv-07133 (LGS)  
Joint Status Letter**

Your Honor:

Pursuant to the Court's October 19, 2023 Order (ECF No. 44) (the "October 19 Order") and the Court's Individual Rule III.D.3, Plaintiffs UMG Recordings, Inc., Capitol Records, LLC, Concord Bicycle Assets, LLC, CMGI Recorded Music Assets LLC, Sony Music Entertainment, and Arista Music (collectively, "Plaintiffs") and Defendants Internet Archive, Brewster Kahle, the Kahle/Austin Foundation, George Blood, and George Blood LP (collectively, "Defendants"), submit this joint status report.

**(a) What discovery has taken place:**

**(1) What discovery requests have been propounded, who propounded each request and on what date:**

- On October 27, 2023 Plaintiffs served their First Sets of Requests for Production and First Sets of Interrogatories on all Defendants.
- On November 1, 2023, the parties exchanged Rule 26(a)(1) initial disclosures.

**(2) What responses were made, who made each response and on what date:**

- Defendants' responses to Plaintiffs' First Sets of Requests for Production and First Sets of Interrogatories are due on November 27, 2023.

**(3) The volume of documents produced, who produced the documents and when:**

- Defendants have not yet produced documents in response to Plaintiffs' First Sets of Requests for Production and First Sets of Interrogatories.

**(b) Procedural history of the case to date:**

**(1) What pleadings have been filed, who filed each pleading and on what date:**

- On August 11, 2023 Plaintiffs filed their Complaint. *See* ECF No. 1.

- On October 4, Defendants Brewster Kahle, George Blood, George Blood LP, and the Kahle/Austin Foundation filed pre-motion letters indicating those Defendants' intent to file Rule 12(b)(2) motions to dismiss for lack of personal jurisdiction. *See* ECF Nos. 35, 37.
- Also by pre-motion letter on October 4, Defendants Internet Archive, Brewster Kahle, George Blood, and George Blood L.P. indicated their intent to move under 28 U.S.C. § 1404 to transfer venue to the Northern District of California, and to move under Rule 12(b)(6) to dismiss Plaintiffs' claims as time-barred by the Copyright Act's three-year statute of limitations. *See* ECF No. 35.
- By pre-motion letter on October 4, the Kahle/Austin Foundation indicated its intent to move under Rule 12(b)(6) to dismiss for failure to plead contributory infringement. *See* ECF No. 37.
- On October 11, Plaintiffs filed pre-motion letters indicating their intent to oppose Defendants' motions to dismiss and motion to transfer venue. *See* ECF Nos. 39, 40.

**(2) What motions, if any, have been filed, who filed each motion and on what date each motion was filed:**

- As ordered by the Court, on November 1, 2023, Defendants filed only their Motion to Transfer Venue ("Defendants' Transfer Motion") (ECF No. 48) and a Memorandum of Law (ECF No. 49) and Declaration of Brewster Kahle (ECF No. 50) in support thereof. *See* October 19 Order ("Defendants shall file a single transfer motion by November 1, 2023.").
- On November 15, 2023, Plaintiffs filed a Memorandum of Law in opposition to Defendants' Transfer Motion ("Plaintiffs' Opposition") (ECF No. 51) and Declarations of Corey Miller (ECF No. 52), Alasdair McMullan (ECF No. 53), Gregg Goldman (ECF No. 54), and Wade Leak (ECF No. 55) in support thereof.

**(3) What motions, if any, are currently pending and, for each pending motion, the date it was or is scheduled to be fully briefed:**

- Defendants' Transfer Motion is currently pending but is scheduled to be fully briefed after Defendants file a reply to Plaintiffs' Opposition by November 21, 2023.
- As noted above, Defendants' pre-motion letters asserted grounds to dismiss for lack of personal jurisdiction under Rule 12(b)(2) and failure to state a claim under Rule 12(b)(6). ECF No. 35, 37. Per the October 19 Order, a briefing schedule has not yet been set for these additional motions.

**(c) The parties' plan to ensure that they meet the Court-ordered discovery deadlines:**

- The parties have exchanged multiple drafts of a proposed protective order and ESI production protocol, and have met and conferred regarding those drafts. The parties are still negotiating the terms of the proposed protective order and ESI production protocol but are working diligently to finalize those documents for submission to the Court.
- Plaintiffs are ensuring they meet the Court-ordered discovery deadlines by timely serving discovery requests and diligently negotiating a proposed protective order and ESI production protocol.
- Defendants are ensuring that the parties meet the Court-ordered discovery deadlines by carefully negotiating a proposed protective order and ESI production protocol to avoid unnecessary delays, disputes, and potential motion practice later in the proceeding.
- While reserving their rights to challenge whether they are subject to personal jurisdiction in this Court, Defendants plan to serve their initial discovery requests before the end of November.

Respectfully submitted,

OPPENHEIM + ZEBRAK, LLP

*/s/ Corey Miller*

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